

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

FLORIDA RIGHTS RESTORATION
COALITION, *et al.*,

Plaintiffs,

V.

RONALD DESANTIS, *et al.*,

Defendants.

Case No. 1:23-cv-22688-
CMA

MOTION TO VACATE THE SEPTEMBER 15, 2023 SCHEDULING ORDER AND OCTOBER 14, 2023 MEDIATION ORDER

Plaintiffs Florida Rights Restoration Coalition, Rhoshanda Jones, Angel Sanchez, Autumn Waite, and Brandon Walthour (together, the “Plaintiffs”), by and through their undersigned counsel, move to vacate (1) the September 14, 2023 scheduling order (CM/ECF Dkt. No. 265 (the “Scheduling Order”)) and (2) the October 14, 2023 order scheduling a mediation hearing for May 6, 2024 (CM/ECF Dkt. No. 315 (the “Mediation Order”)), and enter the attached proposed order, directing the parties to submit an amended joint scheduling report in compliance with Federal Rule of Civil Procedure 26(f) and Local Rule 16.1(b) and proposed date for mediation within 14 days after this Court enters an order on Defendants’ motion to dismiss or, if the Court’s order on Defendants’ motion to dismiss grants Plaintiffs leave to amend their complaint, then within 14 days after Plaintiffs’ deadline to amend their complaint.

On September 14, 2023, the Court entered the Scheduling Order in this matter. It directs the parties to, inter alia, exchange expert reports by April 15, 2024, and to complete all discovery, including expert discovery, by May 13, 2024. The Scheduling Order also directed the parties to identify a mediator and to file a proposed order scheduling a mediation hearing. On October 13,

2023, the parties filed a proposed schedule for a mediation hearing on May 6, 2024, and the Court entered the Mediation Order on October 14, 2023.

Thereafter, Defendants filed a motion to dismiss (CM/ECF Dkt. Nos. 330, 338, 339), and a motion to stay discovery pending resolution of the motion to dismiss (CM/ECF Dkt. No. 325). On November 3, 2023, the Court granted Defendants' motion to stay discovery pending resolution of their motion to dismiss. (CM/ECF Dkt. No. 329).

The Plaintiffs respectfully submit that the deadlines contemplated by the Scheduling Order and Mediation Order are impracticable until the parties have had an opportunity to engage in Rule 26 discovery. During the pendency of the discovery stay, consistent with the Court's November 17, 2023 order, FRRC has made public record requests to each of the defendants in this action. However, "public records requests are not substitutes for discovery." *Blocktree Properties, LLC v. Pub. Util. Dist. No. 2 of Grant Cnty. Washington*, No. 2:18-CV-390-RMP, 2019 WL 2437468, at *3 (E.D. Wash. June 11, 2019) (noting that Washington's public records act, like Florida's, has exceptions not present in Rule 26); *see also Cappabianca v. Comm'r, U.S. Customs Serv.*, 847 F. Supp. 1558, 1564 (M.D. Fla. 1994) (explaining that "FOIA is no substitute for discovery practice").

In light of the ongoing discovery stay, Plaintiffs request that the Court vacate the Scheduling Order and the Mediation Order, and enter the attached proposed order. The proposed order directs the parties to submit an amended joint scheduling report in compliance with Federal Rule of Civil Procedure 26(f) and Local Rule 16.1(b) and proposed date for mediation within 14 days after this Court enters an order on Defendants' motion to dismiss or, if the Court's order on Defendants' motion to dismiss grants Plaintiffs leave to amend their complaint, then within 14 days after Plaintiffs' deadline to amend their complaint.

LOCAL RULE 7.1 CERTIFICATION

In accordance with Local Rule 7.1(a)(3), the undersigned certify that they have made a good faith effort to confer with as many of the Defendants as possible regarding the relief sought in this motion. On April 10, 2024, Plaintiffs sent email communications to all counsel for Defendants, outlining the relief sought in this motion. As of the time of filing this motion, Plaintiffs have received confirmation from counsel for the 67 Supervisor Defendants that they do not oppose the relief sought herein. The State Defendants take no position on the relief requested herein.¹ None of the Defendants contacted by Plaintiffs have indicated that they oppose the relief sought herein. Although Plaintiffs have not been able to confirm the position of every named Defendant regarding the relief sought, counsel for Plaintiffs felt compelled to file this motion

¹ The terms “Supervisor Defendants” and “State Defendants” have the meaning set forth in footnote one of Plaintiffs’ response to Defendants’ amended motion to dismiss. (CM/ECF Dkt. No. 338).

before the April 15, 2024 expert report deadline in the Scheduling Order, which was stayed by the Court's order dated November 3, 2023.

Dated: April 12, 2024

Respectfully submitted,

<p><u>/s/ Pravin R. Patel</u> Pravin R. Patel (Fla. Bar No. 0099939) WEIL, GOTSHAL & MANGES LLP 1395 Brickell Avenue Suite 1200 Miami, Florida 33131 Telephone: 305-577-3100 Pravin.patel@weil.com</p> <p><i>Attorneys for Plaintiffs</i></p>	<p><u>/s/ Carey Dunne</u> Carey Dunne (admitted <i>pro hac vice</i>) Kevin Trowel (admitted <i>pro hac vice</i>) Martha Reiser (admitted <i>pro hac vice</i>) Michele Roberts (admitted <i>pro hac vice</i>) FREE & FAIR LITIGATION GROUP 266 W 37th Street, 20th Floor New York, NY 10018 Telephone: 646-434-8604 carey@freeandfairlitigation.org kevin@freeandfairlitigation.org martha@freeandfairlitigation.org michele@freeandfairlitigation.org</p> <p><i>Attorneys for Plaintiffs</i></p>
<p><u>/s/ John A. Freedman</u> John A. Freedman (admitted <i>pro hac vice</i>) Jeremy Karpatkin (admitted <i>pro hac vice</i>) ARNOLD & PORTER KAYE SCHOLER LLP 601 Massachusetts Ave NW Washington, DC 20001-3743 Telephone: 202-942-5000 John.freedman@arnoldporter.com Jeremy.karpatkin@arnoldporter.com</p> <p><i>Attorneys for Plaintiffs</i></p>	